HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.774 OF 2007

Between:

E. Narasinga Rao

…. Appellant

And

The Government of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue (Endts.II) Department, Secretariat,
Hyderabad and eleven others

… Respodnents

:: JUDGMENT ::

Counsel for the appellant : Shri M. Vidyasagar

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20th September, 2007

Per G.S. SINGHVI, CJ

Having failed to convince the learned Single Judge to annul the

constitution of the Board of Trustees of Sri Ganesh Temple, Secunderabad (for short, 'the temple'), the appellant has filed this appeal under Clause 15 of the Letters Patent.

The appellant claims to be a devotee of the temple which has been included in the list of religious institutions published under Section 6(a) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act'). In April 2005, the State Government, Department of Endowments issued notification dated 11-4-2005 inviting applications for appointment of the Board of Trustees of the temple. However, that notification was not acted upon and vide memo dated 5-7-2006, the Government directed Commissioner of Endowments, Hyderabad (respondent No.2 herein) to take steps for publication of the annexed notification for inviting applications from the interested persons for constitution of Non-Hereditary Board of Trustees. Thereafter, notice in Form-I inviting applications for trusteeship was affixed in the Office of the Assistant Commissioner on 13-7-2006 and on the notice board of the temple on 15-7-2006. The Executive Officer of the temple also gave a paper statement on 2-8-2006 inviting applications from the interested persons within 30 days for constitution of the Board of Trustees. Nine applications were received by respondent No. 2 on 17-7-2006, two applications were received by him on 29-7-2007 and one application was received by Assistant Commissioner of Endowments on 31-7-2006. The latter forwarded the applications to respondent No.2. He also carried out verification of all the applications and submitted report dated 18-8-2006, which was forwarded to the State Government. After considering the same, the Government issued G.O.Rt.No. 1986 dated 8-9-2006 for appointment of respondent Nos. 4 to 12 as members of the Board of Trustees of the temple.

The appellant challenged order dated 8-9-2006 in Writ Petition No.23072 of 2006 primarily on the ground that appointment of the Board of Trustees is vitiated due to violation of Rules 3 and 4 of the Andhra Pradesh Charitable and Hindu Religious and Endowments appointment of Trustees Rules, 1987 (for short, 'the Rules'). He pleaded that respondent Nos. 4 to 12 were appointed to the Board of Trustess without publishing the notice as per the requirements of Rules 3 and 4, which are mandatory.

The learned Single Judge took cognizance of the complaint of the appellant that notice inviting applications from interested persons was not published in daily newspaper as per the requirement of Rule 24(2), the factual matrix of the case and held as under:

> "The object of the notice under Rule 4 is to inform all interested persons about the proposed constitution of the Trust Board. The said purpose of publicity was very well achieved in the instant case by affixing the notice in the notice board of the temple and the office of the Assistant Commissioner, particularly by the press statement given by the Executive Officer. Rule 4(2) did not provide for publication in the local dailies in Form-I. Hence, the press statement given by the Executive Officer which was sufficient to inform all interested persons has satisfied the requirement of Rule 4(2) of the Rules. As a matter of fact, the requirement of the publication in the local dailies itself is not mandatory. Therefore, on that ground, the selection process cannot be held to be vitiated.
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> Even the contention that the press statement issued by the Executive Officer inviting applications and various steps taken by the second respondent-Commissioner of Endowments for publication of notice were without jurisdiction since the Government alone is competent to exercise the powers under Section 15(1) (a) for appointment of the Board of Trustees is untenable having regard to the language of Rule 4 read with Form I appended to the Rules. As held by this Court in W.P.Nos.1020 and 1337 of 2007 "cause publication" is different from taking out publication or published notice in Form-I and therefore the statement by the Executive Officer in the Press and the publication caused by the other Officials in Form-I is

sufficient compliance and cannot be held to be without authority."

Shri M. Vidyasagar argued that the order under challenge is liable to be set aside and appointment of respondent Nos.4 to 12 as members of Board of Trustees of the temple is liable to be annulled because the reasons assigned by the learned Single Judge for refusing to nullify order dated 8-9-2006 are legally untenable. Learned counsel emphasized that Rule 4(2) is couched in mandatory form and argued that non-publication of notice in daily newspaper should be treated fatal to the constitution of Board of Trustees. He submitted that exercise undertaken by the official respondents for constituting the Board of Trustees was illegal per se and the learned Single Judge gravely erred by refusing to quash order dated 8-9-2006.

In our opinion, there is no merit in the argument of the learned counsel. It is true that Rule 4(2) of the Rules contemplates publication of notice in the newspaper, but in the facts of this case, violation of that rule cannot be treated fatal to the constitution of the Board of Trustees and we do not find any valid ground to interfere with the order of the learned Single Judge because,

(i) the so-called procedural irregularity committed by the departmental authorities has not affected any legal or constitutional right of the appellant. It is neither the pleaded case of the appellant nor the learned counsel argued that he was interested in becoming member of the Board of Trustees, but could not do so on account of non-publication of notice in the newspaper, and

(ii) the appellant's interest as a devotee of the temple cannot be overstretched to nullify the constitution of the Board of Trustees on the ground of non-publication of notice in the local newspaper. Indeed, it is not even the case of the appellant that appointment of respondent Nos. 4 to 12 as members of the Board of Trustees is tainted by

malafides.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No. 1453 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY,J

September 20, 2007
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